

FILED

APR 07 2010

CITY CLERK

RESOLUTION NO. 12, 2010

A Resolution of the Common Council of the City of Terre Haute, Indiana, Designating an Area Within the City of Terre Haute, Indiana, commonly identified as 1800 and 3181 North Fruitridge Avenue, as an Economic Revitalization Area for the Purposes of Real Property Tax Abatement.

WHEREAS, a petition for ten (10) year real property tax abatement has been filed with the Common Council of the City of Terre Haute requesting that the real property described therein on Exhibit A be designated an Economic Revitalization Area for purposes of real property tax abatement; and

WHEREAS, the petitioner, Sony DADC US, Inc., formerly known as Sony Digital Audio Disc Corporation, has submitted a Statement of Benefits and provided all information and documentation necessary for the Common Council to make an informed decision, said information including a description of the real property which is commonly known as 1800 and 3181 North Fruitridge Avenue, and more particularly described as follows:

(See attached Exhibit "A")

WHEREAS, the Common Council of the City of Terre Haute is authorized under the provisions of I.C. 6-1.1-12.1-1 et seq., to designate areas of the City as Economic Revitalization Areas for the purpose of tax abatement; and

WHEREAS, the Common Council of the City of Terre Haute has considered the Petition and Statement of Benefits and has conducted a complete and proper investigation of the subject property and neighborhood to determine that the area qualifies as an Economic Revitalization Area under Indiana statutes; and

WHEREAS, the Common Council has found the subject property to be an area which is within the corporate limits of the City of Terre Haute which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property; and

WHEREAS, the petitioner estimates the investment to be made on the subject site will continue to provide the opportunity to retain 1200 jobs with an annual payroll of \$56,846,658, and have an estimated value of \$700,000 for internal remodeling of current buildings for Blu-Ray product line to meet market demand.

WHEREAS, the Common Council of the City of Terre Haute has found the request for the Real Property Tax Abatement to satisfy the requirements of Special Ordinance 11, 1997, as amended by Special Ordinance 43, 2000.

NOW, THEREFORE, IT IS FOUND, DETERMINED AND RESOLVED by the Common Council of the City of Terre Haute that:

1. The petitioner's estimate of the number of individuals who will be retained can reasonably be expected to continue from the proposed renovation.
2. The totality of the benefits of the proposed renovation is sufficient to justify a ten year real property tax deduction from assessed valuation to result therefrom under Indiana statutes, and each such deduction should be, and is hereby, allowed.
3. The real property is located within an Economic Development Target Area as required pursuant to Indiana Code 6-1.1-12.1-3 and 6-1.1-12.1-7.
4. That the petition for designating the subject property as an Economic Revitalization Area for the purposes of ten year real property tax abatement and the Statement of Benefits are hereby approved, and the property is hereby designated as an Economic Revitalization Area pursuant to I.C. 6-1.1-12.1-1 et seq.

Presented by:



Neil Garrison, Councilman

Passed in open Council this _____ day of April, 2010.

Neil Garrison, President
Common Council of Terre
Haute, Indiana

ATTEST:

Charles P. Hanley, City Clerk

Presented by me to the Mayor this _____ day of April, 2010.

Charles P. Hanley, City Clerk

Approved by me this _____ day of April, 2010.

Duke A. Bennett, Mayor, City
of Terre Haute

ATTEST:

Charles P. Hanley, City Clerk

PUBLIC HEARING held this _____ day of April, 2010.

Neil Garrison, President
Common Council of Terre
Haute, Indiana

This instrument was prepared by Richard J. Shagley, WRIGHT, SHAGLEY & LOWERY, P.C.,
500 Ohio Street, Terre Haute, IN 47807, (812) 232-3388.

EXHIBIT A
LEGAL DESCRIPTION

A parcel of land described as follows: Beginning at the Northwest corner of the Northeast Quarter of Section 12, Township 12 North, Range 9 West in Harrison Township, Vigo County, Indiana; thence south 0 degrees 03 minutes 00 seconds West, 1,109.19 feet; thence North 89 degrees 97 minutes 98 seconds West, 990.00 feet; thence North 0 degrees 09 minutes 12 seconds East, 232.30 feet; thence North 89 degrees 97 minutes 98 seconds West, 109.73 feet; thence North 0 degrees 09 minutes 12 seconds East, 323.43 feet; thence North 89 degrees 97 minutes 29 seconds West, 318.09 feet; thence North 0 degrees 07 minutes 49 seconds East, 979.91 feet to the North Section line; thence South 88 degrees 11 minutes 99 seconds East, 977.10 feet, to the point of beginning.

Commonly known as 3181 N. Fruitridge Avenue, Terre Haute, Indiana.

AND

A parcel of land described as follows: Commencing at the Northwest corner of the Northeast $\frac{1}{4}$ (NE $\frac{1}{4}$) of Section 12, Township 12 North, Range 9 West, Harrison Township, Vigo County, Indiana, thence South 88 degrees 17 minutes 90 seconds East along centerline Fort Harrison Road 447.34 feet to the centerline of Aberdeen Avenue, South 00 degrees 09 minutes 90 seconds East along and with the centerline said road 220.62 feet to the place of beginning. Thence South 00 degrees 09 minutes 90 seconds East along and with the centerline said road 1349.38 feet to the North line extended of a tract as conveyed by Deed Record 388 Page 267-1 Records of Vigo County Recorder thence North 88 degrees 17 minutes 90 seconds West along and with the North line said tract 490.07 feet to the West line of the Northeast $\frac{1}{4}$ (NE $\frac{1}{4}$) said Section 12, North 00 degrees 03 minutes 90 seconds West along and with the West line of said Northeast $\frac{1}{4}$ (NE $\frac{1}{4}$) 1349.30 feet; South 88 degrees 17 minutes 90 seconds East 447.72 feet to the place of beginning and containing 13.898 acres, more or less.

Commonly known as 1800 N. Fruitridge Avenue, Terre Haute, Indiana.

FINAL ACTION BY COMMON COUNCIL OF THE
CITY OF TERRE HAUTE, INDIANA REGARDING
RESOLUTION NO. 12, 2010

WHEREAS, the Common Council of the City of Terre Haute, adopted Resolution No. 12, 2010 on the 15th day of April, 2010, and pursuant to Indiana Law has published notice of the adoption and substance of said Resolution, including a description of the effected area and notice that a description of the effected area is available for inspection in the office of the County Assessor and further stating a date which the Common Council would receive and hear remonstrances and objections; and

WHEREAS, the Common Council has conducted the hearing as required by law and has received no remonstrances or objections to designation of the effected area as an Economic Revitalization Area or to approval of the Statement of Benefits; and

WHEREAS, said matter is before the Common Council for final action pursuant to Indiana law; and

WHEREAS, the Common Council has received and examined, prior to said hearing, (i) a statement of benefits on the form prescribed by the State Board of Tax Commissioners and proper application for designation; (ii) an Agreement with the Board of Public Works for the City of Terre Haute; and (iii) has heard all appropriate evidence concerning the proposed project and is found and does find:

1. That the area has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property.

2. That the estimate of individuals whose employment will be retained as a result of the proposed renovation can reasonably be expected to continue.

3. That the benefits described can reasonably be expected to continue from the proposed renovation.

4. That the totality of benefits is sufficient to justify the deduction.

5. That the real property is located within an Economic Development Target Area as required by Indiana Code 6-1.1-12.1-3 and 6-1.1-12.1-7 for the type of facility proposed by Petitioner.

6. All qualifications for establishing an Economic Revitalization Area have been met.

7. That the requirements of Special Ordinance 11, 1997, as amended by Special Ordinance 43, 2000 have been met.

NOW, THEREFORE, for final action on Resolution No. 12, 2010, the Common Council of the City of Terre Haute, Indiana, RESOLVES, and FINDS, and DETERMINES:

1. That all the requirements for designation of the real property described in Resolution No. 12, 2010, as an Economic Revitalization Area have been met, the foregoing findings are true and that all information required to be submitted has been submitted in proper form.

2. That Resolution No. 12, 2010, is in all respects confirmed and approved (as modified to incorporate therein this final action) and the benefits of the proposed redevelopment are sufficient to justify ten year real property tax abatement under Indiana statutes for the proposed construction and development described in the Statement of Benefits of Sony DADC US, Inc. and the deduction for the proposed project and the Statement of Benefits submitted by Sony DADC US, Inc. is approved and that the real estate described in Resolution No. 12, 2010, is declared an Economic Revitalization Area for the purposes of ten year real property tax abatement, and the said real estate is hereby designated an Economic Revitalization Area pursuant to I.C. 6-1.1-12.1-1 et seq.

3. That said Resolution supplements any other designation of the real estate as an Economic Revitalization Area.

4. That this final action, findings and confirmation of Resolution No. 12, 2010, shall be incorporated in and be a part of Resolution No. 12, 2010.

Presented by:



Neil Garrison, Councilman

Passed in open Council this _____ day of May, 2010.

Neil Garrison, President
Common Council of Terre
Haute, Indiana

ATTEST:

Charles P. Hanley, City Clerk

Presented by me to the Mayor this _____ day of a May, 2010.

Charles P. Hanley, City Clerk

Approved by me this _____ day of May, 2010.

Duke A. Bennett, Mayor, City
of Terre Haute

ATTEST:

Charles P. Hanley, City Clerk

This instrument prepared by: Richard J. Shagley, WRIGHT, SHAGLEY & LOWERY, P.C., 500
Ohio Street, Terre Haute, IN 47807

**CITY OF TERRE HAUTE
PETITION FOR REAL PROPERTY
TAX ABATEMENT CONSIDERATION**

The Petitioner, **SONY DADC US, INC., formerly known as SONY DIGITAL AUDIO DISC CORPORATION**, an Indiana Corporation, owner of real property located within the City of Terre Haute, hereby petitions the Common Council of the City of Terre Haute for real property tax abatement consideration pursuant to I.C. 6-1.1-12.1-1, et seq. and in support of this petition states the following:

1. The project, the Petitioner proposes internal remodeling of current buildings and building expansion for Blu-Ray product line to meet market demand.
2. This project, once completed, not counting construction labor, Sony DADC US, Inc. will continue to retain 1200 jobs in the manufacturing facility as long as business conditions and sale of products permit.
3. That the estimated dollar value of this project is about \$700,000 in real property improvements.
4. That the facilities for which tax abatement consideration is petitioned are currently owned by or leased to Sony DADC US, Inc., 1800 North Fruitridge Avenue, Terre Haute, Vigo County, Indiana.
5. The commonly known address of the location of the property is 1800 and 3181 North Fruitridge Avenue, Terre Haute, Indiana, a legal description of which is attached hereto, and marked as Exhibit "A".
6. The best estimate of the amount of taxes being and to be abated for the proposed expansion and renovation is set forth in the "Sony DADC US, Inc. Estimated Tax Abatement", which is attached hereto, made a part hereof and marked as Exhibit "B".
7. No public financing is being used for any phase of the project.
8. In view of the foregoing circumstances, Petitioner in good faith applies for a ten (10) year tax abatement as above set forth.
9. Indiana State Form 51767 (R2/1-07), Statement of Benefits, as prescribed by the Indiana State Board of Tax Commissioners, which contains confidential information pursuant to the provisions of I.C. 6-1.1-35-9, will be submitted by Petitioner to the members of the Common Council at an appropriate time and manner for consideration to preserve its confidentiality.
10. The current use of the Property is manufacturing and the current zoning is M-2 Manufacturing District.

11. Sony DADC US, Inc. agrees to enter into an Agreement with the Board of Public Works for the City of Terre Haute, Indiana, in substantially the same form as is attached hereto and made a part hereof as Exhibit "C", and further, Petitioner agrees to comply with Special Ordinance 11, 1997, as amended by Special Ordinance 43, 2000.

12. The person to contact as the Petitioner's agent regarding additional information and the public hearing notifications is:


Mr. Michael Mitchell
EVP and CTO
Sony DADC US, Inc.
1800 North Fruitridge Avenue
Terre Haute, IN 47804

WHEREFORE, Petitioner, requests that the Common Council of the City of Terre Haute, Indiana, adopt a declaratory resolution declaring and designating the area described herein to be an Economic Revitalization Area for purposes of real property tax abatement consideration, and after publication of notice and public hearing, determine qualifications for an economic revitalization area have been met and confirm such resolution.

PETITIONER:

Sony DADC US, Inc.

By: _____


Michael Mitchell, EVP and CTO of Sony
DADC US, Inc.

This instrument prepared by Richard J. Shagley, Attorney at Law, Wright, Shagley & Lowery, P.C., 500 Ohio Street, Terre Haute, IN 47807, (812) 232-3388.

EXHIBIT A
LEGAL DESCRIPTION

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A parcel of land described as follows: Commencing at the Northwest corner of the Northeast $\frac{1}{4}$ (NE $\frac{1}{4}$) of Section 12, Township 12 North, Range 9 West, Harrison Township, Vigo County, Indiana, thence South 88 degrees 17 minutes 90 seconds East along centerline Fort Harrison Road 447.34 feet to the centerline of Aberdeen Avenue, South 00 degrees 09 minutes 90 seconds East along and with the centerline said road 220.62 feet to the place of beginning. Thence South 00 degrees 09 minutes 90 seconds East along and with the centerline said road 1349.38 feet to the North line extended of a tract as conveyed by Deed Record 388 Page 267-1 Records of Vigo County Recorder thence North 88 degrees 17 minutes 90 seconds West along and with the North line said tract 490.07 feet to the West line of the Northeast $\frac{1}{4}$ (NE $\frac{1}{4}$) said Section 12, North 00 degrees 03 minutes 90 seconds West along and with the West line of said Northeast $\frac{1}{4}$ (NE $\frac{1}{4}$) 1349.30 feet; South 88 degrees 17 minutes 90 seconds East 447.72 feet to the place of beginning and containing 13.898 acres, more or less.

Commonly known as 1800 N. Fruitridge Avenue, Terre Haute, Indiana.

EXHIBIT B

Sony DADC US, Inc.

ESTIMATED REAL PROPERTY TAX ABATEMENT

| Tax Year | Cost | Assessed Value | Per \$100 | Tax Abatement % | Abated | Paid |
|---------------------|--------------|---------------------------|----------------------|--------------------------------|--------------------|--------------------|
| 1 | \$700,000.00 | \$210,000.00 | 3.6216 | 100 | \$7,641.77 | 0 |
| 2 | \$700,000.00 | \$210,000.00 | 3.6216 | 95 | \$7,259.68 | \$382.09 |
| 3 | \$700,000.00 | \$210,000.00 | 3.6216 | 80 | \$6,113.42 | \$1,528.35 |
| 4 | \$700,000.00 | \$210,000.00 | 3.6216 | 65 | \$4,967.15 | \$2,674.62 |
| 5 | \$700,000.00 | \$210,000.00 | 3.6216 | 50 | \$3,820.89 | \$3,820.89 |
| 6 | \$700,000.00 | \$210,000.00 | 3.6216 | 40 | \$3,056.71 | \$4,585.06 |
| 7 | \$700,000.00 | \$210,000.00 | 3.6216 | 30 | \$2,292.53 | \$5,349.24 |
| 8 | \$700,000.00 | \$210,000.00 | 3.6216 | 20 | \$1,528.35 | \$6,113.42 |
| 9 | \$700,000.00 | \$210,000.00 | 3.6216 | 10 | \$764.18 | \$6,877.59 |
| 10 | \$700,000.00 | \$210,000.00 | 3.6216 | 5 | \$382.09 | \$7,259.68 |
| | | | | Total | \$37,826.77 | \$38,590.94 |

EXHIBIT C
AGREEMENT

This Agreement (the "Agreement") dated as of the _____ day of _____, 2010, serves as a confirmation of Sony DADC US, Inc., formerly known as Sony Digital Audio Disc Corporation, (the "Applicant") commitment, pending a May 13, 2010 public hearing, to comply with the project description, and job retention (and associated wage rates and salaries) figures contained in its designation application, Statement of Benefits, the Preliminary Economic Revitalization Area Resolution No. 12, 2010 and attachments adopted by the Common Council of the City of Terre Haute, Indiana (the "Council") on April 15, 2010 and this Agreement (the "Commitment").

Subject to the adoption of a Final Economic Revitalization Area Resolution by the Council, the City of Terre Haute, Indiana (the "City") commits to providing a ten (10) year real property tax abatement for the Applicant's capital expenditure of up to \$700,000 associated with the construction of the Commitments. The capital expenditure for the Project and the retention of such positions shall occur within two (2) years of the estimated completion date of December 31, 2010, contained in the approved Statement of Benefits Form SB-1 (the "Commitment Date").

During the term of the abatement, the City may annually request information from the Applicant concerning the status of the Project, the approved capital expenditure for the Project, the number of full-time permanent positions retained by the Project, and the average wage rates and salaries (excluding benefits & overtime) associated with the positions, and the Applicant shall provide the City with adequate written evidence thereof within 15 days of such request (the "Annual Survey"). The applicant shall provide a copy of the annual CF1 to the Board of Public Works and Safety at the same time the CF1 is filed with the County. The City shall utilize this information to verify that the Applicant has complied with the commitments contained in "the Commitments" at all times after the Commitment Date and during the duration of the abatement. The Applicant further agrees to provide the City with such additional information requested by the City related to the information provided in the Annual Survey and the CF-1 form within a reasonable time following any such additional request.

The City, by and through the Council, reserves the right to terminate the Economic Revitalization Area designation and associated property tax abatement deductions if it determines that the Applicant has not made reasonable efforts to substantially comply with all the commitments, and the Applicant's failure to substantially comply with the Commitments was not due to factors beyond its control. As used in the Agreement, "substantial compliance" shall mean the Applicant's compliance with the following: Making capital expenditures of up to \$700,000 for the Project.

As used in this Agreement, factors beyond the control of the Applicant shall only include factors not reasonably foreseeable at the time of the designation application and submission of Statement of Benefits which are not caused by any act or omission of the Applicant and which materially and adversely affect the ability of the Applicant to substantially comply with this Agreement.

If the City terminates the Economic Revitalization Area designation and associated tax abatement deductions, it may require the Applicant to repay the City all or a portion of the tax abatement savings received through the date of such termination. The amount of tax abatement required to be repaid for each year of noncompliance shall not exceed an amount equal to the percentage by which the Applicant has failed to attain substantial compliance in position retention and/or creation and average hourly wage rate and salary categories multiplied by the dollar amount of taxes actually abated. If the Applicant fails to substantially comply with more than one of the aforementioned categories, repayment shall be based on the highest level of noncompliance.

If at any time during the term of this Agreement, whether before or after the Commitment Date, the Applicant shall: (I) cease operations at the facility for which the tax abatement was granted: or (ii) announce the cessation of operations at such facility, then the City may immediately terminate the Economic Revitalization Area designation and associated future tax abatement deductions.

In the event the City requires repayment of the tax abatement savings as provided hereunder, it shall provide Applicant with a written statement calculating the amount due (the "Statement"), and Applicant shall make such repayment to the City within 30 days of the date of the Statement. If the Applicant does not make timely repayment, the City shall be entitled to all reasonable costs and attorneys fees incurred in the enforcement and collection of the tax abatement savings required to be repaid hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

"Applicant"

Board of Public Works & Safety
City of Terre Haute

Sony DADC US, Inc.

By: 
Michael Mitchell, EVP and CTO
of Sony DADC US, Inc.

Approved as to Legal Adequacy and Form on this _____ day of _____, 200__.

By: _____

Title: _____